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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,106	03/05/2001	David Funk	41938/DBP/C664	2743

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EXAMINER

SEDIGHIAN, REZA

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,106

Applicant(s)

FUNK, DAVID

Examiner

M. R. Sedighian

Art Unit

2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milton et al. (US Patent No: 6,563,615 B2).

Regarding claims 1, 11-13, and 16, Milton discloses an optical network (fig. 1), comprising: a network management station (col. 6, line 7, each node of the network has a maintenance channel control processor); one source network element (for example node 4, fig. 1), one destination network element (for example node 8, fig. 1), wherein the source network element (node 4, fig. 1) comprises a source proxy (91, fig. 11, note that each node has a maintenance channel signal that drives a laser 91, as it is shown in fig. 11) for sending OSC signal (col. 3, lines 58-59 and 95, fig. 11) in the form of IP datagrams (col. 10, lines 1-6) to the destination network element (node 8, fig. 1) under the control of the management station (note that each node has a maintenance channel control processor), the source proxy (the laser 91 of each node, such as node 4) being arranged in a manner such that in use, it sends duplicate IP datagrams along two different optical paths to the destination network element (note that each node sends pilot signal to the other node in the network, for example node 4 sends pilot signal to node 5 in a clockwise direction and sends pilot signal to node 8 in a counter clockwise direction, so node 4 sends duplicate pilot signals in two different paths), and wherein the destination network element (for example node 8 in fig. 1) comprises a destination proxy (col. 6, lines 6-7, each node has a demodulator and filter) arranged to pass one of the duplicate IP datagrams into the destination network element for

processing (each node has a maintenance channel demodulator and a filter that picks off the maintenance channel data, which is demodulated by a FSK demodulator). Milton differs from the claimed invention in that Milton does not specifically disclose filtering out for disposal the other duplicate IP datagram. Milton discloses each node has a low frequency bandpass filter that picks off the maintenance channel data (col. 6, lines 12-13). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of invention that a node filter such as the one of Milton can pass, or prevent, or dispose a duplicate pilot signal or a datagram in order to provide a proper status and monitoring message for the node.

Regarding claim 2, Milton discloses the source proxy is arranged in a manner such that in use the duplication of IP datagrams is effected at an Ethernet layer (col. 6, lines 7-8).

Regarding claim 3, Milton discloses the distribution of status reports and control messages (col. 3, line 8, col. 10, lines 1-6).

Regarding claims 4-5, as to management function that is being affected via e-mail messages and that is being transmitted using the standard IP protocols, or a HTTP server incorporated in the network element, Milton discloses the maintenance and control processor of each node is a small computer board that contains processors, ram, flash memory and several serial interfaces (col. 9, lines 35-38). Milton further discloses the processor has an embedded DOS that is augmented with a TCP/IP routing and control module (col. 9, lines 38-40). Therefore, it would have been obvious to a person of ordinary skill in the art that in such a control and processing system management information can be transmitted via e-mail messages by using standard IP protocols to further provide status reporting functions. Incorporating a HTTP server in a network element is well known.

Regarding claim 6, Milton discloses the network element is a network node (col. 4, lines 25-35).

Regarding claims 7, 14, and 17, Milton discloses the network is a ring network (col. 4, lines 1-3) and transmission paths (2, 3, fig. 1) are along opposite directions (each path has a direction opposite to the other path).

Regarding claim 8, Milton discloses the network is a mesh network (col. 4, lines 60-63). Claim 8 further requires similar limitations as discussed above in claim 1.

Regarding claim 9, Milton discloses the optical network comprises more than one destination network elements (there are a plurality of other nodes in the ring network such as nodes 6 and 7), wherein the OSC is terminated and re-transmitted at each destination network element (each destination node, such as nodes 6 and 7 can receive and re-transmit respective OSC signals or pilot signal to the other nodes).

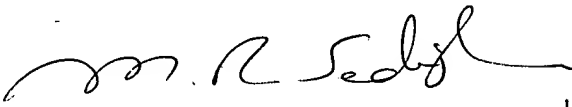
Regarding claim 10, Milton discloses the source proxy is capable of functioning as a destination proxy and/or the destination proxy is arranged to be capable of functioning as a source proxy (note that in the ring network of Milton each node has laser transmitter to transmit a maintenance channel, and each node has a receiver and maintenance channel demodulator with filters to pick the maintenance channel that is received from the other node).

Regarding claim 15, Milton discloses the management station is incorporated in the network element (col. 6, lines 3-7).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. R. Sedighian whose telephone number is (703) 308-9063. The examiner can normally be reached on M-F (from 9 AM to 5 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (703) 305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


M. R. SEDIGHIAN
Patent Examiner
Art Unit: 2633